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Letter dated 7 May 2003 from the Secretary-General addressed to the President of the Security Council

I am attaching for your consideration and for the consideration of the members of the Security Council a letter dated 1 May 2003 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, Judge Theodor Meron (see annex).

In his letter, President Meron requests that the Security Council amend the Statute of the International Tribunal for the Former Yugoslavia so that, during the period for which an ad litem judge is appointed to serve in the Tribunal for a trial, he or she can also adjudicate in pre-trial proceedings in other cases.

I should be most grateful if you could bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

03-35361 (E) 090503

Annex

Letter dated 1 May 2003 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council

[Original: English and French]

I take the liberty of addressing you on a matter of particular significance for the International Tribunal: the participation of ad litem judges in the preparation of cases for trial.

I wish to remind you that on 6 March 2002 my predecessor, Judge Claude Jorda, addressed a request to the Security Council to remove from article 13 quater of the Statute of the International Tribunal the provision that states that the ad litem judges are not authorized "to adjudicate in pre-trial proceedings". I would renew my predecessor's request, and I would also request that you add to article 13 quater, paragraph 1, of the statute a subparagraph (d) stating that ad litem judges "enjoy the power to adjudicate in pre-trial proceedings in cases other than those that they have been appointed to try".

Like Judge Jorda, I am convinced that the present restriction on the mandate of the ad litem judges prevents the International Tribunal from making the most efficient use of their time. It would therefore be beneficial for the International Tribunal if ad litem judges, while sitting in the trials to which they were assigned by the Secretary-General, could also participate in the pre-trial phase of other cases. Since the International Tribunal has only three courtrooms for six simultaneous trials, the ad litem judges sit only half days in their assigned trials, which are often very long. For this reason I consider that the ad litem judges have the time necessary to deal with other ongoing cases. This proposal seems all the more justified in view of the fact that, given their knowledge and experience at the International Tribunal, the ad litem judges are fully qualified to prepare other cases for trial.

At the same time, I would emphasize that the limited and temporary character of the function of ad litem judges would in no way be called into question by these additional duties. Each ad litem judge would remain assigned to one specific case, and only as long as that case continues would the ad litem judge assist in the preparation of other cases. Thus, no additional expense would be incurred by the United Nations.

Moreover, I wish to confirm that, in accordance with article 13 quater of the Statute of the International Tribunal, the ad litem judges still would not participate in the adoption of rules of procedure and evidence, the review of indictments, the consultations held by the President about the appointment of judges, the granting of pardons or the commutation of sentences. There is thus no question of their becoming quasi-permanent judges called upon to sit in several trials; it is a matter only of producing a maximum "return" on their tenure at the Tribunal.

Thanking you in advance for your attention to this matter. I remain at your disposal for any additional information.

(*Signed*) Theodor **Meron**
President